

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

**SCIELE PHARMA INC. (NOW KNOWN AS
SHIONOGI PHARMA INC.),**
Plaintiff-Appellee,

AND

**ANDRX CORPORATION, ANDRX
PHARMACEUTICALS INC. (DOING BUSINESS AS
WATSON LABORATORIES INC. – FLORIDA),
ANDRX PHARMACEUTICALS L.L.C., ANDRX
LABORATORIES (NJ) INC., ANDRX EU LTD., AND
ANDRX LABS L.L.C.,**
Plaintiffs,

v.

**LUPIN LTD. AND LUPIN PHARMACEUTICALS
INC.,**
Defendants-Appellants,

AND

**MYLAN INC. AND MYLAN PHARMACEUTICALS
INC.,**
Defendants.

2012-1228

SCIELE PHARMA v. LUPIN LTD

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Appeal from the United States District Court for the District of Delaware in consolidated case no. 09-CV-0037, Judge Robert B. Kugler.

ON MOTION

Before LOURIE, PROST, and MOORE, *Circuit Judges*.

PER CURIAM.

O R D E R

Lupin Ltd. and Lupin Pharmaceuticals (Lupin) move for a stay, pending appeal, of the preliminary injunction entered by the United States District Court for the District of Delaware. Sciele Pharma Inc. et al. oppose.

In deciding whether to grant a stay, pending appeal, this court "assesses the movant's chances of success on the merits and weighs the equities as they affect the parties and the public." *E. I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 835 F.2d 277, 278 (Fed. Cir. 1987). *See also Standard Havens Prods. v. Gencor Indus.*, 897 F.2d 511 (Fed. Cir. 1990). To prevail, a movant must establish a strong likelihood of success on the merits or, failing that, must demonstrate that it has a substantial case on the merits and the harm factors militate in its favor. *Hilton v. Braunskill*, 481 U.S. 770, 778 (1987).

Upon consideration thereof,

IT IS ORDERED THAT:

The motion is granted.

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SCIELE PHARMA v. LUPIN LTD

FOR THE COURT

APR 18 2012

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: David B. Bassett, Esq.
Douglass C. Hochstetler, Esq.
Mary B. Matterer, Esq.

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FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

APR 18 2012

JAN HORBALY
CLERK